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success which have characterized the Law School within the last twenty-five years. As an example of graceful and felicitous introduction, the closing paragraph of Hon. J. C. Carter's address, introducing Professor Langdell, has been rarely surpassed.

THE ROMAN AND THE COMMON LAW. — The address delivered by Judge William Wirt Howe, of New Orleans, before the American Bar Association last summer has recently been reprinted in pamphlet form. He outlines in a very attractive manner the several ways in which the Roman law has exercised an influence on our law, wisely saying little about Roman Britain and much about Anglo-Norman ecclesiastics. Students of Germanic legal history will perhaps find him too generous to Rome when he comes to an enumeration of some institutions and doctrines of ours which show civilian influence. The use of the fine, for instance, in conveying land, can scarcely be connected with the *in jure cessio* of the older Roman lawyers. The *in jure cessio* was a collusive suit which ended with a recovery by judgment, and not with a "fine," or compromise (*concordia finalis*). Furthermore, the Roman device did not preclude the claims of third parties. On the other hand, the use of collusive suits to convey land was known to the courts of the Frankish Empire, and the *gerichtliche Auflassung* which developed from the Frankish practice was the most important, possibly the sole, mode of conveying land in Germany during the later Middle Ages. The procedure is substantially that of the English fine, and the one whom the court puts in possession is protected after a year and a day by the court's ban. There would seem to be no reason to look beyond the Germanic systems of law for the origin of the fine. (See Pollock and Maitland, *Hist. of Eng. Law*, vol. ii., pp. 94, 95.) The same may be said of many another English practice or rule of law. The accident of resemblance, and in some cases the partially Romanized terminology of our law, have more than once led writers to give undue credit to Rome.

REPORT OF COMMISSIONERS OF CODE REVISION IN NEW YORK. — On the 11th of December, the Commissioners appointed by Governor Morton last June to study codes of procedure in operation outside of New York, and submit propositions as to the best means of revising, condensing, and simplifying the present New York Code, reported to the Legislature the result of their six months' work. Six months has proved too short to allow a full performance of the duties imposed upon the Commission. Accordingly the Commissioners make no attempt to suggest in detail the features of the new code: nor have they found it practicable in the limited time to make a comparative study of the various State and foreign procedure codes. Such an examination of other codes and specific propositions for a revised New York Code are to be reported a year hence.

The first part of the present report deals with civil procedure in ancient countries, including in its range systems of procedure as widely separated, geographically at least, as those of ancient Ireland, Greece, Persia, and Hindustan. The second part contains a list of modern states and countries, with an enumeration in case of each, of the codes, statutes, and other sources of information regarding the procedure in

vogue. The third and last division of the report gives in outline the history of civil procedure in New York. According to the Commissioners' computation twenty-five hundred code amendments and statutes relating to practice, enacted since the organization of the State government, besides hundreds of special, local and temporary acts, represent the tortuous evolution of the present unsatisfactory code. The suggestions thrown out as to the general lines along which reform should be made, indicate an inclination on the part of the Commissioners to revise and expand the present code, rather than create a new one. The proposition, however, to extend the scope of the code so as to include as procedure "whatever requires the attention of a court in enforcing or protecting the rights of citizens" — however remote its application — cannot escape much adverse criticism. The test of inclusion is too indefinite. Simplicity and uniformity of procedure are not associated with a miscellaneous code.

The report has, on the whole, broken the ground well for the work to follow; and for this the Commissioners are deserving of praise. But the report has done little more than this, and the crucial task of revision yet remains. Despite the care which characterizes the present report, it still seems better to put the task of revision on free shoulders; not to add it to the burden of revising the General Statutes, which is already imposed upon the Commissioners.

EXTRADITION PROCEEDINGS — WHAT LAW DETERMINES CRIMINALITY OF ACT? — If the United States demands of Canada the extradition of a fugitive from justice, must it be proved before the Canadian tribunal that the act charged is a crime according to both United States and Canadian law? If not, which law is to be considered? The Extradition Act of Canada, following the usual language of treaties, provides that a prisoner shall be surrendered only upon such evidence of criminality as would, under Canadian law, justify his committal for trial if the crime had been committed in Canada. At first glance it would appear that Canadian law should determine merely this question of the amount of evidence necessary, and that, as the crime, if any, has been committed against the laws of the United States, those laws alone should determine substantively whether or not there has been a crime. And that is the opinion expressed by Armour, J., in *Re Phipps*, 1 Ont. R. 586, 609–610, and by the majority of the court in *In the Matter of John Anderson*, 20 U. C. Q. B. 124. But such treaty or statutory provisions have generally been interpreted as providing that the laws of the surrendering country must be considered, not only on points of evidence, but also on the ultimate question of whether the act alleged constitutes one of the extradition crimes. (See *In re Windsor*, 6 B. & S. 522.) And the weight of Canadian authority is to that effect. *In re Smith*, 4 U. C. P. R. 215; Moore on Extradition, § 429, and cases cited.

The further question, as to whether the act must also be shown to be a crime according to the laws of the demanding country, was raised in the recent case of *In re Murphy*, 22 A. R. 386 (as abstracted in 31 Canada Law Journal, 594), and the Court of Appeals of Ontario was evenly divided in its answer. The language of the Extradition Act seems to be equally susceptible of either interpretation, so that the question is left to be decided on general principles. The opinion expressed by the